

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION


UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CRIMINAL NO. H-93-210-6
	§	
RAFAEL CASTRO,	§	
	§	
Defendant.	§	
	§	
CIVIL ACTION NO. 97-1407	§	

ORDER

Raphael Castro is a federal prison inmate convicted in 1996 after a lengthy jury trial of drug trafficking offenses and conspiracy to commit those offenses. Castro received a 292 month sentence. The Fifth Circuit affirmed his conviction and judgment in 1996. Castro's motion to vacate under 28 U.S.C. § 2255 was denied and the Fifth Circuit affirmed. In March 2007, the Fifth Circuit Court of Appeals denied Castro a certificate of appealability to challenge this court's denial of his 2006 challenge to the sentence he had received. In February 2012, Castro filed a motion requesting a copy of the transcript of his sentencing, at government expense. But there is no pending postconviction relief motion under 28 U.S.C. § 2255 and could not be unless the Fifth Circuit granted Castro leave to file a successive petition. The record does not show that he has made such a request or, given his numerous prior challenges, that he would have a basis for doing so. A federal prisoner pursuing postconviction remedies is not entitled to transcripts at government expense merely because he is indigent. *See United States v. Herrera*, 474 F.2d 1049 (5th Cir.1973); *United States v. Oquendo*, 1995 WL 16789 (E.D. La.). Before a transcript is ordered, the court must certify

that the claim asserted under section 2255 is not frivolous and that the transcript is needed to decide the issue raised. A federal prisoner is not entitled to obtain copies of court records at government expense to search for possible defects in the proceedings, to determine whether there is a basis to file a challenge. *See Bonner v. Henderson*, 517 F.2d 135, 136 (5th Cir. 1975); *Campbell v. United States*, 538 F.2d 692, 693 (5th Cir. 1976); *United States v. Oquendo*, 1995 WL 16789, *1 (E.D. La. 1995); *United States v. Scott*, 2000 WL 1818514, *1 (E.D. La.). The motion seeking a copy of the transcript, Docket Entry No. 715, is DENIED.

SIGNED on March 13, 2012, at Houston, Texas.



Lee H. Rosenthal
United States District Judge